

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Chapter 7
	)	
DUKE AND DUKE MANAGEMENT	)	No. 22-05617
LLC,	)	
	)	
Debtor.	)	Judge David D. Cleary

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **Wednesday, August 23, 2023, at 10:00 a.m.**, I will appear before the Honorable David D. Cleary, or any judge sitting in that judge's place, **either** in courtroom 644 of the Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, IL 60604 **or** electronically as described below, and present the motion of the United States Trustee to Dismiss Debtor's Chapter 7 Case, a copy of which is attached.

**Important: Only parties and their counsel may appear for presentment of the motion electronically using Zoom for Government. All others must appear in person.**

**To appear by Zoom using the internet**, go to this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

**To appear by Zoom using a telephone**, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

**Meeting ID and passcode.** The meeting ID for this hearing is 161 122 6457, and the passcode is Cleary644. The meeting ID and passcode can also be found on the judge's page on the court's web site.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

By: /s/ M. Gretchen Silver

M. Gretchen Silver, Trial Attorney  
United States Department of Justice  
Office of the United States Trustee  
219 South Dearborn Street, Room 873  
Chicago, Illinois 60604  
(312) 353-5054

**CERTIFICATE OF SERVICE**

I, M. Gretchen Silver, an attorney, certify that I served a copy of this notice, the attached motion and proposed order, on each entity shown on the service list at the address shown and by the method indicated on July 28, 2023.

/s/ M. Gretchen Silver

**SERVICE LIST**

**Registrants Served Through the Court's Electronic Notice for Registrants:**

- **Patrick S Layng** [USTPRegion11.ES.ECF@usdoj.gov](mailto:USTPRegion11.ES.ECF@usdoj.gov)
- **Norman B Newman** [nnewman@raineslaw.com](mailto:nnewman@raineslaw.com) [nsulak@raineslaw.com](mailto:nsulak@raineslaw.com);  
[IL83@ecfcbis.com](mailto:IL83@ecfcbis.com)
- **Dennis M Sbertoli** [dsbert4978@aol.com](mailto:dsbert4978@aol.com)

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Chapter 7
	)	
DUKE AND DUKE MANAGEMENT	)	No. 22-05617
LLC,	)	
	)	
Debtor.	)	Judge David D. Cleary

**MOTION TO DISMISS DEBTOR’S CHAPTER 7 CASE**

Patrick S. Layng, the United States Trustee for the Northern District of Illinois (the “**U.S. Trustee**”), by his attorney, M. Gretchen Silver, hereby requests entry of an order to dismiss the above-captioned chapter 7 case under 11 U.S.C. §§ 707(a) and 521(a)(1) and grant other relief as this Court deems appropriate. In support of this request, the U.S. Trustee respectfully states:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1334, 151, and 157(a) and (b)(1).
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
3. This Court has proper venue pursuant to 28 U.S.C. §§ 1408 and 1409, and Internal Operating Procedure 15(a) and Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois.
4. Pursuant to 28 U.S.C. § 586, the U.S. Trustee is charged with the duty to monitor the administration of cases commenced under the Bankruptcy Code.
5. The U.S. Trustee has standing to bring this motion pursuant to 11 U.S.C. §§ 307 and 707(a).
6. The U.S. Trustee consents to entry of final orders or judgments in this matter.

### **BACKGROUND**

7. This case commenced on May 16, 2022, when two creditors filed an involuntary petition against the Debtor. Dkt. No. 1.

8. A year later, on May 17, 2023, this Court entered an Order for Relief under Chapter 7 of the Bankruptcy Code (the “**Order for Relief**”). Dkt. No. 39.

9. The Order for Relief also required the Debtor to provide a list of all creditors by May 24, 2023. *Id.*

10. A month later, Debtor’s counsel filed a Motion to Withdraw as Attorney that this Court granted on July 5, 2023. Dkt. No. 43.

11. Debtor has failed to file any of the documents required by Section 521 of the Bankruptcy Code and this Court.

### **ARGUMENT**

12. Section 707(a) of the Bankruptcy Code states that this Court may dismiss a chapter 7 case for cause, including “unreasonable delay by the debtor that is prejudicial to creditors.” 11 U.S.C. § 707(a)(1).

13. Section 521 of the Bankruptcy Code requires a debtor to file, *inter alia*, “a list of creditors, a schedule of assets and liabilities; a schedule of current income and current expenditures; a statement of the debtor’s financial affairs . . . a statement of the amount of monthly net income, itemized to show how the amount is calculated; and a statement disclosing any reasonably anticipated increase in income or expenditures . . . .” 11 U.S.C. §§ 521(a) (1)(A) and (B)(i), (ii), (iii), (v), and (vi).

14. From the time the Order for Relief was entered over two months ago, the Debtor has not satisfied its duties under the Bankruptcy Code which in turn has caused delay to the detriment of creditors.

15. Though required by the Bankruptcy Code, the Debtor has failed to file any of the necessary lists, schedules, statements, and accounting under 11 U.S.C. § 521(a)(1). This includes Debtor's failure to file a list of all creditors by the deadline this Court set. The deadline to file the list of all creditors has passed without extension.

16. The Debtor has failed to perform its obligations and has failed to file any motion to extend time to satisfy the requirements set out under 11 U.S.C. § 521(a)(1) and by this Court.

17. This Court and Debtor's creditors have not been provided the necessary information required of the Debtor.

18. The longer this case is allowed to continue with no disclosure, the longer creditors will be harmed.

WHEREFORE, the U.S. Trustee respectfully asks this Court to dismiss this Chapter 7 case under 11 U.S.C. §§ 707(a) and 521(a)(1) and for such other relief as is just.

RESPECTFULLY SUBMITTED:

PATRICK S. LAYNG  
UNITED STATES TRUSTEE

DATED: July 28, 2023

By: /s/ M. Gretchen Silver

M. Gretchen Silver, Trial Attorney  
United States Department of Justice  
Office of the United States Trustee  
219 South Dearborn Street, Room 873  
Chicago, Illinois 60604  
(312) 353-5054